

United States District Court **FILED**

NORTHERN DISTRICT OF CALIFORNIA

NOV 2 2007

UNITED STATES OF AMERICA

Venue: San Francisco

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

V.

CRIMINAL COMPLAINT

BZ

OSCAR ERNESTO ROMERO-ROMERO, JR.

CASE NUMBER **3 07 70657**

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about September 27, 2007 in Humboldt County, in the

Northern District of California defendant(s) did,


OFFENSE: OSCAR ERNESTO ROMERO-ROMERO, an alien, after having been removed, excluded, and deported from the United States, and was thereafter found in the United States without having obtained the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission into the United States, in violation of Title 8 United States Code, Section(s) 1326

I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT IN SUPPORT OF THIS COMPLAINT

PENALTIES: Imprisonment for not more than 20 years, a fine of not more than \$250,000.00, a \$100.00 dollar special assessment, and 3 years supervised release.

APPROVED AS TO FORM:


ASSISTANT UNITED STATES ATTORNEYContinued on the attached sheet and made a part hereof: ☒ Yes ☐ NoWarrant of Arrest Requested: ☐ Yes ☒ NoBail Amount: **NO BAIL**
Signature of Complainant

Sworn to before me and subscribed in my presence,

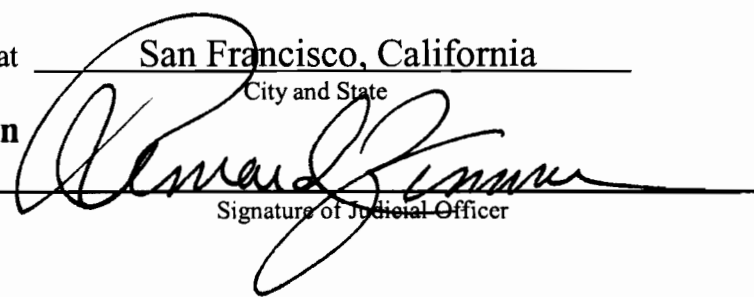
Date


Honorable Bernard Zimmerman
United States Magistrate Judge

Name & Title of Judicial Officer

at San Francisco, California

City and State


Signature of Judicial Officer

STATE AND NORTHERN DISTRICT OF CALIFORNIA)
) ss, AFFIDAVIT
CITY AND COUNTY OF SAN FRANCISCO)

I, Polly E. Kaiser, Deportation Officer, U.S. Immigration and Customs Enforcement (ICE), being duly sworn, depose and state:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. This affidavit is submitted in support of a criminal complaint against OSCAR ERNESTO ROMERO-ROMERO, JR., for violating Title 8, U.S. Code, Section 1326. The facts set forth in this Affidavit are based on my review of ROMERO-ROMERO'S official Immigration Service file (No. A41 715 825), my personal observations, my training and experience, and where noted, information related to me by other law enforcement officials. However, the facts set forth in this Affidavit are not all facts related to ROMERO-ROMERO that are known to me.

II. AGENT BACKGROUND AND EXPERTISE

2. I have been a Deportation Officer with the U. S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), formerly the United States Department of Justice (DOJ), Immigration and Naturalization Service (INS), for approximately four years. I am currently assigned under the Field Office Director, San Francisco, California (FOD/SF) in the Detention and Removal Operations (DRO) division. I am presently attached to the Prosecutions Unit of the Criminal Alien Program, a group that is responsible for enforcing federal criminal statutes involving criminal aliens who reenter the United States illegally.

III. APPLICABLE LAW

3. Title 8, U.S. Code, Section 1326 provides criminal penalties for “any alien who . . . has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien’s reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act”

IV. FACTS ESTABLISHING PROBABLE CAUSE

4. OSCAR ERNESTO ROMERO-ROMERO, JR. is a 27 year-old male who is a native and citizen of El Salvador, who last entered the United States illegally by crossing the international border with Mexico on or about October 2004 via San Ysidro, California, and knowingly

remained in the United States without first having obtained the consent to reapply for admission from the Attorney General of the United States or the United States Secretary of Homeland Security.

5. The official Immigration Service file for ROMERO-ROMERO contains one executed Warrant of Removal. The Warrant of Removal is dated February 4, 2004, the day that ROMERO-ROMERO was deported from the United States to El Salvador at Chandler, Arizona.

6. On September 27, 2007, Immigration and Customs Enforcement Officers were notified by the Humboldt County Sheriff's Department that ROMERO-ROMERO was in their custody. Immigration Enforcement Agent Shawn Dionida faxed an Immigration detainer to Humboldt County Jail on October 4, 2007 for ROMERO-ROMERO.

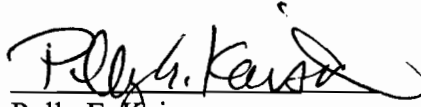
7. On October 23, 2007, Immigration Enforcement Agent Shawn Dionida and I interviewed ROMERO-ROMERO at the Bureau of Immigration and Customs Enforcement District Office in San Francisco, California. After Agent Dionida and I advised ROMERO-ROMERO of his Miranda rights and the right to speak with the consular or diplomatic officers of his country of citizenship, ROMERO-ROMERO waived those rights and provided a sworn statement that his true and correct name is OSCAR ERNESTO ROMERO-ROMERO, JR., that he was born in El Salvador and is a citizen of El Salvador. He admitted that he had previously been removed from the United States, and that he knew he was entering the United States in October of 2004 through San Ysidro, California and remaining in the United States. He further admitted that he did not have permission to re-enter the United States after his last deportation on February 4, 2004.

8. On November 1, 2007, a search of the Immigration Database (IDENT) revealed that ROMERO-ROMERO was previously encountered and detained by ICE on August 19, 2003. ROMERO-ROMERO's photo and fingerprints were entered into the IDENT system on August 19, 2003. Immigration records show that ROMERO-ROMERO remained in ICE custody and was ordered removed from the U.S. by an immigration judge on January 9, 2004. The same ROMERO-ROMERO whose fingerprints and photo were entered into the IDENT system was then removed from the U.S. on February 4, 2004. On October 23, 2007, ROMERO-ROMERO'S fingerprints were entered into the IDENT database and his fingerprints matched those previously submitted on August 19, 2003.

9. There is no indication in the official files of the United States Immigration and Customs Enforcement that the defendant has applied for, or been granted the requisite permission to re-enter the United States from either the Attorney General of the United States or the Secretary of Homeland Security. Further, in his sworn statement, ROMERO-ROMERO admitted that he had not applied to the Attorney General or the Secretary of Homeland Security for permission to re-enter the United States after deportation.

V. CONCLUSION

10. On the basis of the above information, I submit that there is probable cause to believe that OSCAR ERNESTO ROMERO-ROMERO, Jr., illegally reentered the United States following deportation, in violation of Title 8, U.S. Code, Section 1326.

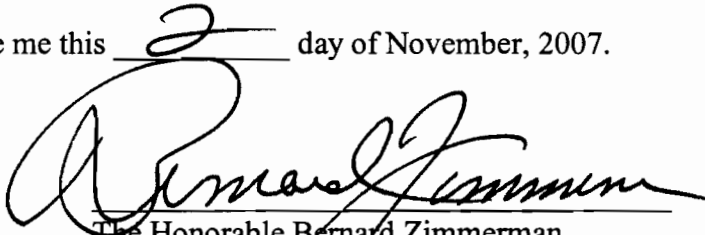


Polly E. Kaiser

Deportation Officer U.S. Department of Homeland
Security

U.S. Immigration and Customs Enforcement
San Francisco, California

Subscribed and sworn to before me this 2 day of November, 2007.



The Honorable Bernard Zimmerman
United States Magistrate Judge
Northern District of California
San Francisco, California